



GAIL FARBER, Director

**COUNTY OF LOS ANGELES
DEPARTMENT OF PUBLIC WORKS**

"To Enrich Lives Through Effective and Caring Service"

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ALHAMBRA, CALIFORNIA 91803-1331
Telephone: (626) 458-5100
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ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

December 01, 2009

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

39 December 1, 2009

Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

Dear Supervisors:

**ACQUISITION OF RIGHT OF WAY AND GRANT OF EASEMENT
IN THE CITY OF ARCADIA
SANTA ANITA WASH - PARCEL 260F
ASSESSOR'S IDENTIFICATION NO. 5771-001-007
(SUPERVISORIAL DISTRICT 5)
(3 VOTES)**

SUBJECT

This action is to approve the acquisition of fee title in Santa Anita Wash, Parcel 260F, in the City of Arcadia for \$150,000 and the grant of an easement for conservation purposes to the County of Los Angeles.

IT IS RECOMMENDED THAT YOUR BOARD ACTING AS THE GOVERNING BODY OF THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT:

1. Find the acquisition is categorically exempt from the California Environmental Quality Act.
2. Approve the acquisition of fee title to Assessor's Identification No. 5771-001-007, also referred to as Santa Anita Wash, Parcel 260F, in the City of Arcadia, from YMS Financial Services, Inc., for \$150,000.
3. Find the grant of an easement for conservation purposes and subsequent use of said easement will not interfere with the use of Santa Anita Wash for any purposes of the Los Angeles County Flood Control District.
4. Approve the grant of an easement in Santa Anita Wash, Parcel 260F, from the Los Angeles County Flood Control District to the County of Los Angeles.
5. Instruct the Chairman to sign the Conservation Easement Deed on behalf of the Los Angeles County Flood Control District and the County of Los Angeles upon presentation by the Department of Public Works.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The purpose of the recommended action is to obtain your Board's approval for the acquisition of fee title to Assessor's Identification No. 5771-001-007, also referred to as Santa Anita Wash, Parcel 260F, in the City of Arcadia, and subsequent grant of easement for conservation purposes to the County of Los Angeles. This 4.88 acre parcel of land has high-quality habitat and will be used for permanent preservation as part of a comprehensive mitigation plan to offset impacts from the pending Santa Anita Reservoir Dam Riser Modification and Reservoir Sediment Removal Project (Santa Anita Project). The California Department of Fish and Game (CDFG) requires the subject parcel be encumbered with a conservation easement to ensure the property will be retained as open space.

Implementation of Strategic Plan Goals

The Countywide Strategic Plan directs the provision of Community and Municipal Services (Goal 3). These transactions will permanently preserve oak woodland habitat, which will result in quality open space for residents of the County of Los Angeles.

FISCAL IMPACT/FINANCING

There will be no impact to the County General Fund.

The proposed purchase price of \$150,000 is representative of the fair market value and was accepted by the property owner, YMS Financial Services, Inc. Funding for the acquisition is available in the Fiscal Year 2009-10 Flood Control District Budget.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

As determined by the final Environmental Impact Report approved by your Board on June 9, 2009, mitigation for the Santa Anita Project is required to reduce unavoidable significant impacts to biological resources to a less than significant level. The proposed purchase of the subject parcel is a component of the comprehensive mitigation plan for environmental impacts associated with the pending Santa Anita Project. The Santa Anita Project will include construction of a new reservoir outlet riser on Santa Anita Dam, clearing vegetation from the Santa Anita Sediment Placement Site (SPS), removing sediment and debris from the reservoir by dry excavation, and transporting the sediment from the reservoir via conveyor belt to the Santa Anita SPS for placement.

The parcel proposed for purchase is approximately 4.88 acres in total size located in the canyon directly adjacent to the Santa Anita SPS, within the City of Arcadia, approximately 1.1 miles north of the 210 Foothill Freeway. The parcel is fully vegetated with native upland habitat, which includes oaks and other native Californian vegetation, and is located within the Santa Anita watershed. Through coordination with the CDFG, permanent protection of this habitat has been approved as part of the mitigation plan for the Santa Anita Project. Other major components of the project mitigation plan include revegetation of the lower Santa Anita SPS and use of mitigation credits at the Big Tujunga Mitigation Bank.

YMS Financial Services, Inc., executed an Agreement to Convey and Claim for Payment and has signed a Grant Deed in favor of the Los Angeles County Flood Control District (LACFCD). Acquisitions in excess of \$75,000 must be approved by your Board. After acquiring the parcel, LACFCD will pursue the conservation easement, which will be in substantially the same form as shown in the enclosure, with CDFG acting as the third party beneficiary.

ENVIRONMENTAL DOCUMENTATION

The proposed purchase is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15325 (a) of the CEQA guidelines and Class 25 of the Environmental Reporting Procedures and Guidelines adopted by your Board on November 17, 1987. These exemptions provide for the transfer of ownership of land to preserve existing natural conditions, including plant and animal habitats.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

The recommended actions will result in the permanent preservation of oak woodland habitat in the Santa Anita Wash watershed which, in turn, improves the quality of life in the County.

CONCLUSION

Please return one adopted copy of this letter to the Department of Public Works, Survey/Mapping & Property Management Division.

The Honorable Board of Supervisors

12/1/2009

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Respectfully submitted,

A handwritten signature in black ink that reads "Gail Farber". The script is cursive and fluid, with the first name "Gail" and last name "Farber" clearly legible.

GAIL FARBER

Director

GF:SGS:psr

Enclosures

c: Auditor-Controller (Accounting Division - Asset
Management)
Chief Executive Office (Lari Sheehan)
County Counsel
Executive Office

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PLEASE NOTE: The following sample Conservation Easement Deed is provided for reference. The Department of Fish and Game updates this document as needed, and it does not necessarily contain all provisions appropriate for a given project.

RECORDING REQUESTED BY AND)
WHEN RECORDED MAIL TO:)
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Space Above Line for Recorder's Use Only

CONSERVATION EASEMENT DEED (Including Third-Party Beneficiary)

THIS CONSERVATION EASEMENT DEED is made this _____ day of _____, 20____, by _Los Angeles County Flood Control District_____ ("Grantor"), in favor of _County of Los Angeles_____ ("Grantee") acting by and through its Public Works Department, with reference to the following facts:

RECITALS

A. Grantor is the sole owner in fee simple of certain real property containing approximately ____4.9__ acres, located in the City of Arcadia, County of _Los Angeles_____, State of California, designated Assessor's Parcel Number(s) ____ APN 5771-001-007_____ and more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "Property").

B. The Property possesses wildlife and habitat values (collectively, "conservation values") of great importance to Grantee, the California Department of Fish and Game ("CDFG"), and the people of the State of California.

C. The Property provides high quality Oak Woodland of which the wildlife and habitat values comprise the "Conservation Values" of the property .

D. Grantee is authorized to hold conservation easements pursuant to Civil Code Section 815.3. Specifically, Grantee is *a governmental entity identified in Civil Code Section 815.3(b) and otherwise authorized to acquire and hold title to real property*].

E. CDFG has jurisdiction, pursuant to Fish and Game Code Section 1802, over the conservation, protection, and management of fish, wildlife, native plants and the habitat necessary for biologically sustainable populations of those species, and CDFG is authorized to

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hold easements for these purposes pursuant to Civil Code Section 815.3, Fish and Game Code Section 1348, and other provisions of California law.

F. This Conservation Easement provides mitigation for certain impacts of The Santa Anita Dam Riser Modification and Sediment Removal Project located in the City of [Arcadia], County of [Los Angeles], State of California, pursuant to *the Agreement Regarding Proposed Stream or Lake Alteration* (Notification No. []) ("*Section 1603 Agreement*") executed by [Los Angeles County Flood Control District] and CDFG, dated []

COVENANTS, TERMS, CONDITIONS AND RESTRICTIONS

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and pursuant to California law, including Civil Code Section 815, *et seq.*, Grantor hereby voluntarily grants and conveys to Grantee a conservation easement in perpetuity over the Property.

1. **Purposes.** The purposes of this Conservation Easement are to ensure the Property will be retained forever in its natural condition and to prevent any use of the Property that will impair or interfere with the conservation values of the Property. Grantor intends that this Conservation Easement will confine the use of the Property to such activities that are consistent with those purposes, including, without limitation, those involving the preservation, restoration and enhancement of native species and their habitats.

2. **Grantee's Rights.** To accomplish the purposes of this Conservation Easement, Grantor hereby grants and conveys the following rights to Grantee and to CDFG as a third party beneficiary of this Conservation Easement:

- (a) To preserve and protect the conservation values of the Property;
- (b) To enter upon the Property at reasonable times in order to monitor compliance with and otherwise enforce the terms of this Conservation Easement, and for scientific research and interpretive purposes by Grantee or its designees and CDFG or its designees, provided that neither Grantee nor CDFG shall unreasonably interfere with Grantor's authorized use and quiet enjoyment of the Property;
- (c) To prevent any activity on or use of the Property that is inconsistent with the purposes of this Conservation Easement and to require the restoration of such areas or features of the Property that may be damaged by any act, failure to act, or any use that is inconsistent with the purposes of this Conservation Easement;
- (d) All mineral, air and water rights of the Grantor associated with the property and necessary to protect and to sustain the biological resources of the Property; and

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(e) All present and future development rights allocated, implied, reserved or inherent in the Property; such rights are hereby terminated and extinguished, and may not be used on or transferred to any portion of the Property, nor any other property adjacent or otherwise.

3. **Prohibited Uses.** Any activity on or use of the Property inconsistent with the purposes of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following uses and activities by Grantor, Grantor's agents, and third parties, are expressly prohibited:

(a) Unseasonal watering; use of fertilizers, pesticides, biocides, herbicides or other agricultural chemicals; weed abatement activities; incompatible fire protection activities; and any and all other activities and uses which may adversely affect the purposes of this Conservation Easement;

(b) Use of off-road vehicles and use of any other motorized vehicles except on existing roadways;

(c) Agricultural activity of any kind, except that grazing is permitted if done in accordance with a CDFG-approved grazing or management plan;

(d) Recreational activities including, but not limited to, horseback riding, biking, hunting or fishing, except as may be specifically permitted under this Conservation Easement;

(e) Commercial or industrial uses;

(f) Any legal or de facto division, subdivision or partitioning of the Property;

(g) Construction, reconstruction or placement of any building, billboard or sign, or any other structure or improvement of any kind;

(h) Depositing or accumulation of soil, trash, ashes, refuse, waste, bio-solids or any other materials;

(i) Planting, introduction or dispersal of non-native or exotic plant or animal species;

(j) Filling, dumping, excavating, draining, dredging, mining, drilling, removing or exploring for or extraction of minerals, loam, soil, sands, gravel, rocks or other material on or below the surface of the Property;

(k) Altering the surface or general topography of the Property, including building of roads;

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(l) Removing, destroying, or cutting of trees, shrubs or other vegetation, except as required by law for (1) fire breaks, (2) maintenance of existing foot trails or roads, or (3) prevention or treatment of disease; and

(m) Manipulating, impounding or altering any natural water course, body of water or water circulation on the Property, and activities or uses detrimental to water quality, including but not limited to degradation or pollution of any surface or sub-surface waters.

4. **Grantor's Duties.** Grantor shall undertake reasonable actions to prevent the unlawful entry and trespass by persons whose activities degrade or harm the conservation values of the Property. The Grantor shall transmit a letter report to CDFG triennially based on an inspection of the property to confirm no unlawful entry or trespass by persons has degraded or harmed the conservation values of the Property. The report shall also document any remedial measures taken to restore any such damage.

5. **Reserved Rights.** Grantor reserves to itself, and to its personal representatives, heirs, successors, and assigns, all rights accruing from its ownership of the Property, including the right to engage in or to permit or invite others to engage in all uses of the Property that are not expressly prohibited or limited by, and are consistent with the purposes of, this Conservation Easement.

6. **Grantee's Remedies.** CDFG, as a third party beneficiary of this Conservation Easement, shall have the same rights as Grantee under this section to enforce the terms of this Conservation Easement. If Grantee determines that a violation of the terms of this Conservation Easement has occurred or is threatened, Grantee shall give written notice to Grantor of such violation and demand in writing the cure of such violation. At the time of giving any such notice, Grantee shall give a copy of the notice to CDFG. If Grantor fails to cure the violation within fifteen (90) days after receipt of written notice and demand from Grantee, or if the cure reasonably requires more than fifteen (90) days to complete and Grantor fails to begin the cure within the fifteen (90)-day period or fails to continue diligently to complete the cure, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Conservation Easement, to recover any damages to which Grantee may be entitled for violation of the terms of this Conservation Easement or for any injury to the conservation values of the Property, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies, or for other equitable relief, including, but not limited to, the restoration of the Property to the condition in which it existed prior to any such violation or injury. Without limiting Grantor's liability therefor, Grantee may apply any damages recovered to the cost of undertaking any corrective action on the Property.

If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate damage to the conservation values of the Property, Grantee may pursue its remedies under this Section 6 without prior notice to Grantor or without waiting for the period provided for cure to expire. Grantee's rights under this section apply equally to actual or threatened violations of the terms of this Conservation Easement.

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Grantor agrees that Grantee's remedies at law for any violation of the terms of this Conservation Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in this section, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Conservation Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity, including but not limited to, the remedies set forth in Civil Code Section 815, *et seq.*, inclusive. The failure of Grantee to discover a violation or to take immediate legal action shall not bar Grantee from taking such action at a later time.

6.1. Costs of Enforcement. Any costs incurred by Grantee or CDFG, where it is the prevailing party, in enforcing the terms of this Conservation Easement against Grantor, including, but not limited to, costs of suit and any costs of restoration necessitated by Grantor's negligence or breach of this Conservation Easement shall be borne by Grantor.

6.2. Discretion of Grantee and CDFG. Enforcement of the terms of this Conservation Easement by Grantee or CDFG shall be at the discretion of the enforcing party, and any forbearance by Grantee or CDFG to exercise its rights under this Conservation Easement in the event of any breach of any term of this Conservation Easement shall not be deemed or construed to be a waiver by Grantee or CDFG of such term or of any subsequent breach of the same or any other term of this Conservation Easement or of any of Grantee's rights (or any rights of CDFG as a third party beneficiary) under this Conservation Easement. No delay or omission by Grantee or CDFG in the exercise of any right or remedy shall impair such right or remedy or be construed as a waiver.

6.3. Acts Beyond Grantor's Control. Nothing contained in this Conservation Easement shall be construed to entitle Grantee or CDFG to bring any action against Grantor for any injury to or change in the Property resulting from (i) any natural cause beyond Grantor's control, including, without limitation, fire not caused by Grantor, flood, storm, or earth movement, or any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes; or (ii) acts by Grantee or its employees or CDFG or its employees.

6.4. Department of Fish and Game Right of Enforcement. All rights and remedies conveyed to Grantee under this Conservation Easement Deed shall extend to and are enforceable by CDFG. These rights are in addition to, and do not limit, the rights of enforcement under *Agreement Regarding Proposed Stream or Lake Alteration (Notification No. [] ("Section 1603 Agreement"))*

8. Access. This Conservation Easement does not convey a general right of access to the public.

9. Costs and Liabilities. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the

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Property. Grantor agrees that neither Grantee nor CDFG shall have any duty or responsibility for the operation, upkeep or maintenance of the Property, the monitoring of hazardous conditions thereon, or the protection of Grantor, the public or any third parties from risks relating to conditions on the Property. Grantor remains solely responsible for obtaining any applicable governmental permits and approvals for any activity or use permitted by this Conservation Easement Deed, and any activity or use shall be undertaken in accordance with all applicable federal, state, local and administrative agency statutes, ordinances, rules, regulations, orders and requirements.

9.1. **Taxes; No Liens.** Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively "taxes"), including any taxes imposed upon, or incurred as a result of, this Conservation Easement, and shall furnish Grantee and CDFG with satisfactory evidence of payment upon request. Grantor shall keep the Property free from any liens, including those arising out of any obligations incurred by Grantor for any labor or materials furnished or alleged to have been furnished to or for Grantor at or for use on the Property.

9.2. **Hold Harmless.** Grantor shall hold harmless, protect and indemnify Grantee and its directors, officers, employees, agents, contractors, and representatives and the heirs, personal representatives, successors and assigns of each of them (each a "Grantee Indemnified Party") and, collectively, "Grantee's Indemnified Parties") and CDFG and its directors, officers, employees, agents, contractors, and representatives, and the heirs, personal representatives, successors and assigns of each of them (each a "CDFG Indemnified Party") and, collectively, "CDFG's Indemnified Parties") from and against any and all liabilities, penalties, costs, losses, damages, expenses (including, without limitation, reasonable attorneys' fees and experts' fees), causes of action, claims, demands, orders, liens or judgments (each a "Claim" and, collectively, "Claims"), arising from or in any way connected with: (1) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, except that (a) this indemnification shall be inapplicable to Grantee's Indemnified Parties with respect to any Claim due solely to the negligence of Grantee or any of its employees and (b) this indemnification shall be inapplicable to CDFG's Indemnified Parties with respect to any Claim due solely to the negligence of CDFG or any of its employees; (2) the obligations specified in Sections 4, 9, and 9.1; and (3) the existence or administration of this Conservation Easement. If any action or proceeding is brought against any of the CDFG Indemnified Parties by reason of any such Claim, Grantor shall, at the election of and upon written notice from CDFG, defend such action or proceeding by counsel reasonably acceptable to the CDFG Indemnified Party or reimburse CDFG for all charges incurred for services of the California Attorney General in defending the action or proceeding.

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9.3. **Extinguishment.** If circumstances arise in the future that render the purposes of this Conservation Easement impossible to accomplish, this Conservation Easement can only be terminated or extinguished, in whole or in part, by judicial proceedings in a court of competent jurisdiction.

9.4. **Condemnation.** The purposes of this Conservation Easement are presumed to be the best and most necessary public use as defined at Code of Civil Procedure Section 1240.680 notwithstanding Code of Civil Procedure Sections 1240.690 and 1240.700.

10. **Transfer of Easement.** This Conservation Easement is transferable by Grantee, but Grantee may assign this Conservation Easement only to CDFG or another entity or organization authorized to acquire and hold conservation easements pursuant to Civil Code Section 815.3 (or any successor provision then applicable) or the laws of the United States. Grantee shall require the assignee to record the assignment in the county where the Property is located.

11. **Transfer of Property.** Grantor agrees to incorporate the terms of this Conservation Easement by reference in any deed or other legal instrument by which Grantor divests itself of any interest in all or any portion of the Property, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee and CDFG of the intent to transfer any interest at least thirty (30) days prior to the date of such transfer. Grantee or CDFG shall have the right to prevent subsequent transfers in which prospective subsequent claimants or transferees are not given notice of the covenants, terms, conditions and restrictions of this Conservation Easement. The failure of Grantor, Grantee or CDFG to perform any act provided in this section shall not impair the validity of this Conservation Easement or limit its enforceability in any way.

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12. **Notices.** Any notice, demand, request, consent, approval, or communication that any party desires or is required to give to the other parties shall be in writing and be served personally or sent by recognized overnight courier that guarantees next-day delivery or by first class mail, postage fully prepaid, addressed as follows:

To Grantor: Los Angeles County Flood Control District

To Grantee: County of Los Angeles

To CDFG: Department of Fish and Game
[Name of Region]
[Region's address]
Attn: Regional Manager

With a copy to: Department of Fish and Game
Office of the General Counsel
1416 Ninth Street, 12th Floor
Sacramento, California 95814-2090
Attn: General Counsel

or to such other address as Grantor, Grantee or CDFG may designate by written notice to the other parties. Notice shall be deemed effective upon delivery in the case of personal delivery or delivery by overnight courier or, in the case of delivery by first class mail, five (5) days after deposit into the United States mail.

13. **Amendment.** This Conservation Easement may be amended by Grantor and Grantee only by mutual written agreement and subject to the prior written approval of CDFG. Any such amendment shall be consistent with the purposes of this Conservation Easement and California law governing conservation easements and shall not affect its perpetual duration. Any such amendment shall be recorded in the official records of [] County, State of California.

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14. **General Provisions.**

(a) **Controlling Law.** The interpretation and performance of this Conservation Easement shall be governed by the laws of the State of California, disregarding the conflicts of law principles of such state.

(b) **Liberal Construction.** Despite any general rule of construction to the contrary, this Conservation Easement shall be liberally construed to effect the purposes of this Conservation Easement and the policy and purpose of Civil Code Section 815, *et seq.* If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Conservation Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

(c) **Severability.** If a court of competent jurisdiction voids or invalidates on its face any provision of this Conservation Easement Deed, such action shall not affect the remainder of this Conservation Easement Deed. If a court of competent jurisdiction voids or invalidates the application of any provision of this Conservation Easement Deed to a person or circumstance, such action shall not affect the application of the provision to other persons or circumstances.

(d) **Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to the Conservation Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Easement. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment in accordance with Section 13.

(e) **No Forfeiture.** Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

(f) **Successors.** The covenants, terms, conditions, and restrictions of this Conservation Easement Deed shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall constitute a servitude running in perpetuity with the Property.

(g) **Termination of Rights and Obligations.** A party's rights and obligations under this Conservation Easement terminate upon transfer of the party's interest in the Conservation Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

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(h) **Captions.** The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon its construction or interpretation.

(i) **No Hazardous Materials Liability.** Grantor represents and warrants that it has no knowledge or notice of any Hazardous Materials (defined below) or underground storage tanks existing, generated, treated, stored, used, released, disposed of, deposited or abandoned in, on, under, or from the Property, or transported to or from or affecting the Property. Without limiting the obligations of Grantor under Section 9.2, Grantor hereby releases and agrees to indemnify, protect and hold harmless the Grantee Indemnified Parties and the CDFG Indemnified Parties (each as defined in Section 9.2) from and against any and all Claims (as defined in Section 9.2) arising from or connected with any Hazardous Materials or underground storage tanks present, alleged to be present, or otherwise associated with the Property at any time, except that (I) this indemnification shall be inapplicable to the Grantee Indemnified Parties with respect to any Hazardous Materials placed, disposed or released by Grantee, its employees or agents and (II) this indemnification shall be inapplicable to the CDFG Indemnified Parties with respect to any Hazardous Materials placed, disposed or released by CDFG, its employees or agents. This release and indemnification includes, without limitation, Claims for (i) injury to or death of any person or physical damage to any property; and (ii) the violation or alleged violation of, or other failure to comply with, any Environmental Laws (defined below). If any action or proceeding is brought against any of the CDFG Indemnified Parties by reason of any such Claim, Grantor shall, at the election of and upon written notice from CDFG, defend such action or proceeding by counsel reasonably acceptable to the CDFG Indemnified Party or reimburse CDFG for all charges incurred for services of the California Attorney General in defending the action or proceeding.

Despite any contrary provision of this Conservation Easement Deed, the parties do not intend this Conservation Easement to be, and this Conservation Easement shall not be, construed such that it creates in or gives to Grantee or CDFG any of the following:

(1) The obligations or liability of an "owner" or "operator," as those terms are defined and used in Environmental Laws (defined below), including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601 *et seq.*; hereinafter, "CERCLA"); or

(2) The obligations or liabilities of a person described in 42 U.S.C. Section 9607(a)(3) or (4); or

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(3) The obligations of a responsible person under any applicable Environmental Laws; or

(4) The right to investigate and remediate any Hazardous Materials associated with the Property; or

(5) Any control over Grantor's ability to investigate, remove, remediate or otherwise clean up any Hazardous Materials associated with the Property.

The term "Hazardous Materials" includes, without limitation, (a) material that is flammable, explosive or radioactive; (b) petroleum products, including by-products and fractions thereof; and (c) hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in CERCLA, the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 *et seq.*; hereinafter "RCRA"); the Hazardous Materials Transportation Act (49 U.S.C. Section 6901 *et seq.*; hereinafter "HTA"); the Hazardous Waste Control Law (California Health & Safety Code Section 25100 *et seq.*; hereinafter "HCL"); the Carpenter-Presley-Tanner Hazardous Substance Account Act (California Health & Safety Code Section 25300 *et seq.*; hereinafter "HSA"), and in the regulations adopted and publications promulgated pursuant to them, or any other applicable Environmental Laws now in effect or enacted after the date of this Conservation Easement Deed.

The term "Environmental Laws" includes, without limitation, CERCLA, RCRA, HTA, HCL, HSA, and any other federal, state, local or administrative agency statute, ordinance, rule, regulation, order or requirement relating to pollution, protection of human health or safety, the environment or Hazardous Materials. Grantor represents, warrants and covenants to Grantee and CDFG that activities upon and use of the Property by Grantor, its agents, employees, invitees and contractors will comply with all Environmental Laws.

(j) Warranty. Grantor represents and warrants that there are no outstanding mortgages, liens, encumbrances or other interests in the Property (including, without limitation, mineral interests) which have not been expressly subordinated to this Conservation Easement Deed, and that the Property is not subject to any other conservation easement.

(k) Additional Easements. Grantor shall not grant any additional easements, rights of way or other interests in the Property (other than a security interest that is subordinate to this Conservation Easement Deed), or grant or otherwise abandon or

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relinquish any water agreement relating to the Property, without first obtaining the written consent of Grantee and CDFG. Grantee or CDFG may withhold such consent if it determines that the proposed interest or transfer is inconsistent with the purposes of this Conservation Easement or will impair or interfere with the conservation values of the Property. This Section 14(k) shall not prohibit transfer of a fee or leasehold interest in the Property that is subject to this Conservation Easement Deed and complies with Section 11.

(l) **Recording.** Grantee shall record this Conservation Easement Deed in the Official Records of _____ County, California, and may re-record it at any time as Grantee deems necessary to preserve its rights in this Conservation Easement.

DRAFT

PLEASE NOTE: The following sample Conservation Easement Deed is provided for reference. The Department of Fish and Game updates this document as needed, and it does not necessarily contain all provisions appropriate for a given project.

IN WITNESS WHEREOF Grantor and Grantee have executed this Conservation Easement Deed the day and year first above written.

GRANTOR:

GRANTEE:

BY: _____

BY: _____

NAME: _____

NAME: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

Approved as to form:

**General Counsel
State of California
Department of Fish and Game**

BY: _____
**Ann S. Malcolm
General Counsel**

EXECUTIVE OFFICE - BOARD OF SUPERVISOR

AGENDA ENTRY

DATE OF MEETING:	December 1, 2009
DEPARTMENT NAME:	PUBLIC WORKS
BOARD LETTERHEAD	PUBLIC WORKS
SUPERVISORIAL DISTRICT AFFECTED	5TH DISTRICT
VOTES REQUIRED	3-VOTES
CHIEF INFORMATION OFFICER'S RECOMMENDATION	APPROVE () APPROVE WITH MODIFICATION () DISAPPROVE () NONE (X)

***** ENTRY MUST BE IN MICROSOFT WORD *****

Instructions: To comply with the Brown Act requirement the reader should fully understand what the department is asking the Board to approve. The recommendation must describe what the action is for; with whom the action is being taken; fiscal impact, including money amounts, funding sources, and effective dates. Also, include an instruction for the Chair(man) or Director to sign when such signature is required on a document.

Recommendation:

Acting as the governing body of the Los Angeles County Flood Control District, find the acquisition is categorically exempt from the California Environmental Act; approve the acquisition of fee title to Assessor's Identification No. 5771-001-007, also referred to as Santa Anita Wash, Parcel 260F, in the City of Arcadia, from YMS Financial Services, Inc., for \$150,000; find the grant of an easement for conservation purposes and subsequent use of said easement will not interfere with the use of Santa Anita Wash for any purposes of the Los Angeles County Flood Control District; approve the grant of an easement in Santa Anita Wash, Parcel 260F, from the Los Angeles County Flood Control District to the County of Los Angeles; instruct the Chairman to sign the Easement document on behalf of the Los Angeles County Flood Control District and the County of Los Angeles upon presentation by the Department of Public Works.

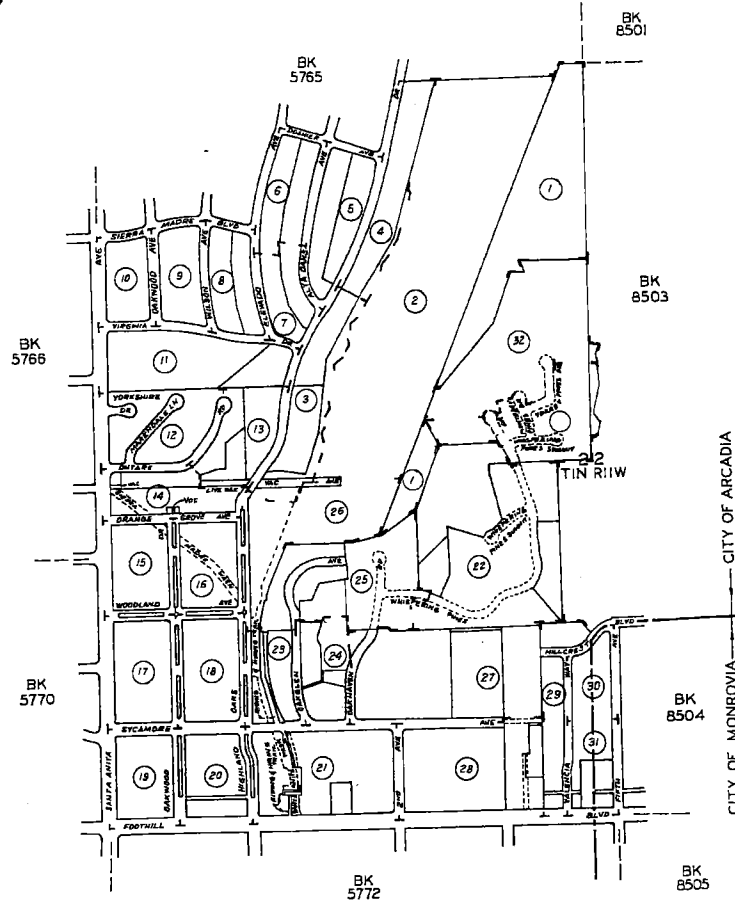
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OFFICE OF ASSESSOR
COUNTY OF LOS ANGELES

INDEX

5771



SCALE 1"=600'

JUN 8 '01

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